IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 9.10.2006

The Oriental Insurance Company Ltd.

...Appellant

versus

Ashok Sharma and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr.Justice Mahesh Grover.

Present: Mr.Sanjiv Pabbi, Advocate
for the appellant.

UMA NATH SINGH, J. (ORAL)

This FAO arises out of an award dated 10.6.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Faridabad, in MVA Petition No.64 of 4.9.2004, awarding a sum of Rs.2,10,000/- in death case of a 21 years' old man.

Learned counsel for the Insurance Company submitted that there was a breach of condition of policy inasmuch as the driver of the offending vehicle (being Mahindra Jeep No.HR-55A-2235) was not holding a valid driving licence. Learned counsel built up his submission on the basis that the Licencing Authority, Deoria, directly sent a report to the Court, which contained a mention that the alleged driving licence seized by the police was fake and had not been issued by it. We do not agree with the submission of learned counsel for the reason that a responsible employee of the department with original record of the Licencing Authority should have been present in the Court to assist. Simple communication, that too directly addressed to the Court, cannot form basis for discharge of the onus

cast on the Insurance Company. That apart, the insurer has not been granted permission under Section 170 of the Motor Vehicles Act, 1988, to contest the case on merit, therefore, it is not open for the Insurance Company to raise any other plea.

Accordingly, the FAO is dismissed in limine.

(UMA NATH SINGH)
JUDGE

October 9, 2006 **(MAHESH GROVER)**
pk **JUDGE**